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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,428	07/07/2003	James P. Davidowitz	061801/1061	7410
7590 Steven B. Pokotilow, Esq. Stroock & Stroock & Lavan LLP 180 Maiden Lane New York, NY 10038			EXAMINER VYAS, ABHISHEK	
			ART UNIT 3694	PAPER NUMBER
			MAIL DATE 09/10/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/615,428

Applicant(s)

DAVIDOWITZ ET AL.

Examiner

Abhishek Vyas

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>21 March 2005 and 10 May 2004</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

**Status of Claims**

1. This action is in reply to the application 10/615428 filed on 7 July 2003
2. Claims 1-16 are currently pending and have been examined.
3. Claims 1-16 are rejected.

**Information Disclosure Statement**

4. The Information Disclosure Statements filed on 10 May 2004 and 21 March 2005 have been considered. An initialed copy of the Form 1449 is enclosed herewith.

**Claim Rejections - 35 USC § 103**

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Examiner's Note:** The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific

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limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

6. **Claims 1, 3, 4, 5, 7-9, 11-13, 15, and 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Burns et al. United States Patent No.: 7,243,083 B2 in view of Potter et al. United States Patent No.: 5,787,402.

7. **As per claim 1, 5, 9, 13**, Burns discloses the following limitations:

- identify spread parameters pertaining to the securities; (see at least Burns column 5, lines 10-16; column 6, lines 1-12).
- receive market data relating to the two or more securities of the spread; (see at least Burns column 5, lines 33-37, lines 42-51).
- determine whether the market data falls within certain spread parameters and, if the market data falls within the certain spread parameters: initiate a first order for a first security of the spread in a foreign currency; (see at least Burns column 4, lines 38-42).
- initiate a second order for a second security of the spread, whereby the second order is at a selected ratio as compared to the first order to reduce the risk of adverse price movements in the first security; (see at least Burns column 4, lines 16-23; column 9, lines 8-11).

Burns does not teach the following limitation. Potter, however, discloses the limitation as follows:

- initiate an FX Order to offset foreign exchange exposure resulting from the first order (see at least Potter, column 9, lines 66-67; column 10, lines 1-4).

It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the system of Burns to specifically include an FX order. One would be motivated to do so to hedge against market losses in a domestic or international market (see Burns column 4, lines 24-35). Burns et al, disclose an exchange to receive and transmit market, commodity and trading order information (see at least Burns column 5, lines 12-14). It would be obvious to one of

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ordinary skill in the art that foreign exchange orders can be initiated at the exchange as described by Burns et al. Burns, also discloses means to carry out spread trading (see at least column 2, lines 35-39; column 5, lines 10-13).

8. **As per claim 3, 7, 11 and 15**, Burns discloses the following limitation:

- convert the market data related to one or more securities in the spread to a certain currency identified in the spread parameters for the spread (see at least Burns column 6, lines 54-59).

9. **As per claim 4, 8,12 and 16**, Burns discloses the following limitation:

- initiate the first order only where the market data related to one or more securities in the spread pass certain rule checks (see at least Burns column 7, lines 41-52).

10. **Claims 2,6,10,14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Burns et al. United States Patent No.: 7,243,083 B2 in view of Potter et al. United States Patent No.: 5,787,402 and further in view of Raykhman United States Patent No.: 7,171,386 B1.

11. **As per claims 2, 6, 10, 14**, Burns and Potter disclose a trading system of two or more securities. Burns and Potter do not disclose the following limitations. Raykhman, however, discloses the limitations as follows:

- the first order is a limit order and the second order is a market order, (see at least Raykhman column 3 lines 15-17; column 5, lines 35-39).
- wherein the second order is initiated following confirmation of the first order (see at least Raykhman column 16, lines 50-63; column 18, lines 10-18).

It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the system of Burns and Potter to specify the market orders and limit orders and to place the orders in order. One would be motivated to do so to provide fair and prompt execution of orders that would maximize the hedge against exposure (see at least Raykhman column 8, lines 43-46; lines 54-65).

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abhishek Vyas whose telephone number is 571-270-1836. The examiner can normally be reached on 7:30am-5:00pm EST Mon-Thur, ALT Friday OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Abhishek Vyas  
Patent Examiner  
29 August 2007  
AV



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